

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:11CR56-02
(STAMP)

GILBERTO MELENDEZ,

Defendant.

**ORDER DENYING DEFENDANT'S MOTION TO PROCEED
IN FORMA PAUPERIS AS MOOT AND
DIRECTING CLERK TO SEND DEFENDANT CJA FORM 24**

On August 12, 2013, the pro se¹ defendant filed a letter, construed as a motion, requesting copy of his sentencing transcript. ECF No. 121. In that motion, the defendant indicates that he cannot afford to purchase a copy of that transcript. Within his motion, however, the plaintiff does not indicate his particular need for the transcript. In addition, the record before this Court does not show that the defendant has any pending actions. The plaintiff then filed a motion to proceed in forma pauperis. ECF No. 123.

Regarding his motion for a copy of his sentencing transcript, this Court may not directly provide the defendant with the sentencing transcript but may provide it to the Warden of FCI Fairton, where the defendant is housed. The Bureau of Prisons does not allow an inmate to possess certain documents which may be

¹Pro se - "One who represents oneself in a court proceeding without the assistance of a lawyer." Black's Law Dictionary 1416 (10th ed. 2014). The defendant was represented by counsel in the underlying criminal action but is now proceeding pro se.

used for illicit purposes, such as to threaten the security of a Bureau institution or the safety of an inmate or other person. Thus, the Bureau of Prisons, although not explicitly stated in its policy, has extended such a rationale to inmate requests for sentencing transcripts. However, the Bureau of Prisons allows an inmate to submit a request to a staff member designated by the Warden for access to his or her court documents for in-person review at the inmate's institution of incarceration. During such reviews, inmates may take handwritten notes but are prohibited from obtaining or possessing photocopies of the documents. In addition, "[i]t is well-settled that copies of transcripts and court documents may be provided to an indigent litigant at government expense upon a showing by the litigant of a particularized need for the documents." United States v. Brumaire, No. 4:03-cr-00474-CWH-8, 2013 WL 2109532 (D.S.C. June 18, 2013) (citing Morin v. United States, 522 F.2d 8, 9 (4th Cir. 1975) (per curiam)). In this case, where the defendant claims he is indigent, the defendant must submit a CJA Form 24 - "Authorization and Voucher for Payment Transcript" if he seeks to receive the sentencing transcript at the expense of the government. Accordingly, the Clerk is DIRECTED to send to the defendant a CJA Form 24.

Further, concerning his motion to proceed in forma pauperis, the record does not show any pending action for which the defendant is proceeding. Because of that, this Court finds no reason to

grant such a designation and thus, the defendant's motion to proceed in forma pauperis is DENIED.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this order to the pro se defendant by certified mail and to counsel of record herein.

DATED: March 26, 2015

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE